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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,216	05/04/2001	Susie J. Wee	10014739-1	9026

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EXAMINER

DINH, MINH

ART UNIT

PAPER NUMBER

2132

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Applicant No.	Applicant(s)
	09/849,216 Examiner Minh Dinh	WEE ET AL. Art Unit 2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 May 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

1. Claims 1-16 have been examined.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-2, 4-10 and 12-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/245172 in view of Bachtiar et al ("A Secure Video On Demand System").

Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application is obvious in view of the copending application. The copending application discloses the same limitations as the present application with two exceptions: (a) the data portion being progressively encrypted; and (b) the header enabling the transcoder to transcode the encrypted data portion without decrypting/re-encrypting the data portion.

Bachtiar discloses video data portion being progressively encrypted (Abstract; fig. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the encryption technique, as taught by Bachtiar, so as to prevent unauthorized access to the data.

Since the transcoder in the copending application can transcode the data portion without decoding/re-encoding the data portion, there is no need for the transcoder to decrypt/re-encrypt the data portion. Therefore, the limitation "the header enabling the transcoder to transcode the encrypted data portion without decrypting/re-encrypting the data portion" is obvious in view of the above combination.

The mapping of the rejected claims in the present application to the copending application as is follows:

<u>Present Application</u>	<u>Copending application</u>
<u>09/849216</u>	<u>10/245172</u>
1	1
2	2
4,5 and 6	3
7	4
8	5
9	6
10	7
12	8
13	9

14	7, 10
15	8, 11
16	9, 12

This is a provisional obviousness-type double patenting rejection.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a data packet stored in a computer readable medium, the data packet comprising a data portion and a header data portion including information to be used by a transcoder. Since the disclosure fails to disclose that the packet contains code or computer instruction providing functionality (Specification, p. 14, lines 1-16; p. 15, lines 26-37; p. 26, lines 3-17), the packet is considered "nonfunctional descriptive material"; and therefore, the claims are nonstatutory.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the instruction or code that causes a functional change in the operation of a device as stated in the preamble.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dogan et al ("Efficient MPEG-4/H/263 Video Transcoder for Interoperability of Heterogeneous Multimedia Networks") in view of Bachtiar and Eleftheriadis et al ("Constrained And General Dynamic Rate Shaping of Compressed Digital Video").

a. Regarding claim 10, which is representative of claims 1-2, 4-7 and 14, Dogan discloses a data packet received by a transcoder, said data packet comprising: a scalably encoded data portion (p. 863, see Introduction, "The two most recent ... two-way video communications"); and a header data portion corresponding to said scalably encoded portion, said header data portion including information adapted to be used by the transcoder to

efficiently transcode said scalably encoded data portion (p. 863, see Methodology of transcoding, "The proposal transcoding ... for the next algorithm").

Dogan does not disclose that the data portion is progressively encrypted and that the information included in said header data portion of said data packet stored therein enabling said transcoder to transcode said scalably encoded, progressively encrypted data portion without decrypting, decoding, re-encrypting, and re-coding said scalably encoded, progressively encrypted data portion. Bachtiar discloses video data portion being progressively encrypted (Abstract; fig. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Dogan packet such that it is progressively encrypted, as taught by Bachtiar, so as to prevent unauthorized access to the data.

Since Dogan transcoder can transcode the data portion without decoding/re-encoding the data portion, there is no need for the transcoder to decrypt/re-encrypt the data portion. Therefore, the limitation "the header enabling the transcoder to transcode the encrypted data portion without decrypting/re-encrypting the data portion" is obvious in view of the above combination.

Dogan does not disclose that data portion having a truncation point identified therein, said identified truncation point enabling a transcoder to perform efficient transcoding of said data packet. Eleftheriadis discloses a transcoder, the transcoder utilizing an identified truncation point in the data portion of a packet to perform efficient transcoding of said data packet (fig. 1; p. 397, left col., 2<sup>nd</sup> paragraph). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the

Dogan packet such that it has a truncation point identified therein, as taught by Eleftheriadis. The identified truncation point enables the transcoder to perform efficient transcoding of said data packet.

- b. Regarding claims 8, 12 and 15, Dogan further discloses that the packet is received and processed by a transcoder, which is an intermediate device (see Title).
- c. Regarding claims 9, 13 and 6 Dogan further discloses that the data portion comprising video data (see Title).

6. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dogan, Bachtiar and Eleftheriadis as applied to claims 1 and 10 above, and further in view of Spanos et al ("Performance Study of a Selective Encryption Scheme for the Security of Networked, Real-Time Video"). Dogan, Bachtiar and Eleftheriadis do not disclose that the header is encrypted. Spanos discloses encrypting headers to conceal decoding initialization parameters (p. 3, right col., last paragraph). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the packet of Dogan, Bachtiar and Eleftheriadis such that the header is encrypted, as taught by Spanos, so as to conceal decoding initialization parameters.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zeng et al (6,505,299) discloses a method for encryption of digital images.

Panusopone et al (6,647,061) discloses a video transcoding method.

Hamanaka (6,650,783) discloses a scalable streaming method.

Li, "Overview of Fine Granularity Scalability in MPEG-4 Video Standard".

Assuncao, "Transcoding of Single-Layer MPEG Video into Lower Rates".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dinh whose telephone number is 571-272-3802.

The examiner can normally be reached on Mon-Fri: 10:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MD

Minh Dinh  
Examiner  
Art Unit 2132

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12/10/2004

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